

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO

In the Matter Of:

JORGE ROSA COLON

Debtor

Case No. 11-07151 (MCF)

Chapter 13

**OBJECTION TO CONFIRMATION OF PLAN AND MOTION REQUESTING  
REJECTION OF LEASED PROPERTY FOR FAILURE TO COMPLY WITH SECTION  
365 OF THE BANKRUPTCY CODE**

TO THE HONORABLE COURT:

COMES NOW creditor POPULAR AUTO, and hereby states and prays as follows:

1. Popular Auto is a creditor of the above-named debtors pursuant to 11 U.S.C. §101(10), and therefore parties in interest in the instant proceeding.
2. On June 16, 2006, debtor subscribed with Popular Auto a financial lease agreement, with respect to a 2006 Mazda 3, lease account no. xx-xxx-xxxxxx-xx-7764. The Financial Lease Contract was payable in sixty (60) consecutive monthly payments of \$371.00 each, said contract already expired on July 1, 2011.
3. On August 26, 2011, debtor herein filed a Bankruptcy petition under Chapter 13 of the Bankruptcy Code, 11 U.S.C. §101, *et seq.*
4. A Proof of Claim corresponding to the abovementioned lease contract was filed by Popular Auto on September 12, 2011, Claim No. 4. At the time of filing, debtor owed the residual of the financial lease in the amount of \$4829.16.

5. On August 26, 2011, debtor filed a Chapter 13 plan in which debtor neither assumed nor rejected the lease with Popular Auto.
6. Popular Auto submits that debtor has failed to comply with 11 U.S.C. §365 and with his proposed Chapter 13 plan. In support thereof Popular Auto submits:
  - a. The vehicle mentioned above is in possession and is being paid by a third party.
7. Therefore, the vehicle herein referred to is not essential to the rehabilitation of debtor in the present case.
8. Therefore, Popular Auto submits that debtor's violations to Section 365 and to their Chapter 13 plan, reflect debtors' inability to provide adequate assurance of future performance meriting the rejection of the lease agreement.
9. 11 U.S.C §365(b) provides in pertinent part:

*(b)(1) If there has been a default in an executory contract or unexpired lease of the debtor, the trustee may not assume such contract or lease unless, at the time of assumption of such contract or lease, the trustee ---*  
*(A) cures, or provides adequate assurance that the trustee will promptly cure such default;*  
*(B) ...*  
*(C) provides adequate assurance of future performance under such contract or lease.*

WHEREFORE, for the above stated reasons, Popular Auto hereby respectfully requests that this Court enter an Order rejecting the lease agreement with Popular Auto for failure to comply with section 365(b)(1).

NOTICE IS HEREBY GIVEN THAT IF NO WRITTEN REPLY OR OPPOSITION IS FILED AND SERVED WITHIN TWENTY-ONE (21) DAYS FROM THE DAY OF SERVICE

HEREOF, THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT  
HEREIN PURSUANT TO BANKRUPTCY LOCAL RULE 9013(a).

**CERTIFICATE OF SERVICE**

I hereby certify that on this date, I electronically filed the foregoing motion with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:  
ROBERTO FIGUEROA CARRASQUILLO, ESQ., Attorney for Debtor and to ALEJANDRO OLIVERAS RIVERA, Chapter 13 Trustee.

Respectfully submitted in San Juan, Puerto Rico, this 10<sup>th</sup> day of October, 2011.

/s/VERONICA DURAN-CASTILLO, ESQ.  
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